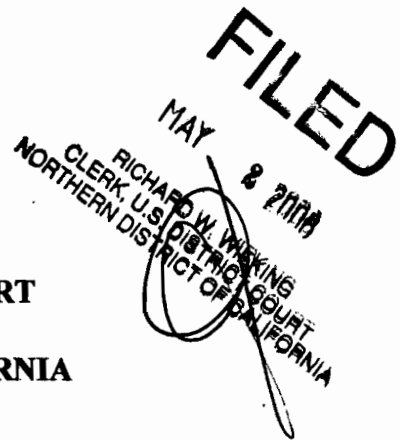


1 Richard Gaytan (Pro se)  
2 733 Banff Drive  
3 Newman, CA 95360  
4 (209) 862-3755  
5 Attorney for Complainant

6 **UNITED STATES DISTRICT COURT**  
7  
8 **NORTHERN DISTRICT OF CALIFORNIA**



9 **Richard Gaytan,**

10 **Plaintiff,**

11 **vs.**

12 **Elaine Chao, Secretary of Labor,**  
13 **Defendant**

) **Case No.: C07-06367 VRW**  
) **ADR FINAL REQUEST**  
)  
)  
)  
)  
)  
)

14  
15  
16 **Request ADR for the following:**

17 **1) Plaintiff reallege and incorporate herein by reference as though fully set forth, each and**  
18 **every allegation. Unless Defendants are restrained, all other disabled veterans will suffer**  
19 **irreparable Injury included in the following;**

20 **a. pain and anguish associated with their PTSD and/or its effects upon their health**  
21 **and Safety, including the possibility of wrongful termination.**

22 **B. unknowing having their claims for PTSD tainted by the Challenged OFCCP**  
23 **Practices;**

24  
25 **2) Plaintiff will be required to engage in a circuitry of actions if injunctive relief is not**  
26 **granted forbidding OFCCP from continuing to commit the Challenged OFCCP Practices**  
27  
28

1 and committing the other wrongful acts alleged above.

2 3) Plaintiff lack an adequate remedy at law to remedy the unlawful acts describe herein.

3  
4 4) Plaintiff is providing Evidence as per of Violation of the 4<sup>th</sup> Amendment

5 **EVIDENCE OF PTSD YEAR 2003**

6 1) Letter from Department of Veterans Affairs (VA), a Federal Agency, dated Nov. 13,  
7 1995.

8 Complainant is diagnose with Post-Traumatic Stress Disorder, know thereafter "PTSD".  
9

10 2) Letter dated August 27, 2002 address to Georgia Martin, Assistant District Director  
11 (ADD) of Complainant being hired as 30% or more with a diagnose of having "PTSD".

12 3) Letter dated April 24, 2003 from complainant VA Dr. Rukhsana A. Khan address "To  
13 Whom It May Concern", stating that complainant has a increase of "PTSD", and  
14 requesting accommodation.  
15

16 4) Complainant civilian doctor for time-off from 4/30/03 to 5/3/03 for Depression, form  
17 of "PTSD".

18 5) Letter dated May 8, 2003 to Georgia Martin, ADD, requesting advice sick form 5/6/03  
19 to 6/6/03 for "PTSD" and requesting accommodation.  
20

21 6) MEMRANDRANUM FOR: complainant dated May 9, 2003 address from Georgia  
22 Martin thru William D. Smitherman, Acting District Director (ADD), deny request for  
23 accommodation.  
24

25 7) MEMRANDRANUM FOR: complainant dated may 15, 2003 from Woody Gilliland  
26 Regional Director of OFCCP. Requesting more medical documentation

27 8) Letter Dated May 27, 2003 from complainant VA Doctor, Dr. Khann, shows a  
28

1 diagnosis of PTSD and recommending advice sick leave.

2 9) E-mail message to Georgia Martin, ESA from Gilliland, WW-ESA approving  
3 complainant advice sick leave of 30 days beginning May 5. Based on the proper medical  
4 documentation he received on June 3, 2003, from complainant VA Doctors.

5 10) E-mail to Bill Smitherman, ADD, dated Oct. 8, 2003, requesting closure of  
6 assignment of Verizon Wireless, complainant was held responsible closing assignment  
7 late.

8 11) E-mail from Georgia Martin, ADD, to complainant dated Sept. 10, 2003, requesting  
9 Flexi-place.

10 12) E-mail from Georgia Martin, ADD, to complainant dated Sept. 26, 2003, Cc: Bill  
11 Smitherman. Re: Status on Request for Accommodation.

12 13) E-mail From Complainant To: Smither, William, Date: Fri. Sept. 26, 2003 at  
13 2:24PM. Re: Status on Request for Accommodation.

14 14) Letter from Complainant VA Doctor, Dr. Teresi, dated: 10/3/03, for: Request for  
15 Accommodation for "having small meal breaks for low blood sugar."

16 15) E-mail From Complainant To: Smither, William, Date: Fri. Nov. 7, 2003. Re: Status  
17 on Request for Accommodation, 2 pages.

18  
19  
20  
21 **EVIDENCE OF PTSD YEAR 2004**

22 1) 1a) Complainant EEO Complaint dated 1-23-2004 for Failed to promote for prior  
23 EEO complaint, 2a) Failed to Accommodate.

24 2) E-mail From Adams, Cynthia L. (Union Steward) to Georgia Martin dated Jan. 6,  
25 2004, for Grievance regarding accommodation.

3) ) E-mail From Adams, Cynthia L. (Union Steward) to Alice Young (ADD) dated Mar. 19, 2004, regarding complainant accommodation.

4) ) E-mail From Alice Young (ADD) to Complainant dated June 10, 2004, regarding complainant NORI (Brondos vs.UAL), reviewing with some construction feed back and given to new Acting DD Nelson (Sarah).

5) ) E-mail From Complainant to Alice Young (ADD) dated June 14, 2004, regarding Status on Promotion and Reasonable Accommodation. 2 pages.

6) Letter from Complainant to Sarah Nelson Acting District Director, dated June 16, 2004. Regarding "PTSD, Request for Accommodation, Low Blood Sugar."

7) Letter from Complainant to Sarah Nelson Acting District Director, dated June 24, 2004, regarding "PTSD" and "Request for Reasonable Accommodation."

8) Letter from Complainant VA Doctor, Dr. Teresi dated July 27, 2004. Regarding complainant High Blood Pressure.

9) Letter from complainant attorney Lezly D. Crowell to Sarah Nelson (ADD) dated Aug.1, 2004, regarding "PTSD, Accommodation, EEO Complaint, etc....", 3 pages.

10) Letter from Department Of Labor Occupational Medicine Consultant dated August 16, 2004.

In **Ricky Jacko v. SSA, EVALUATION OF THE EVIDENCE**, the administrative law judge stated in his findings:

**"Having considered all of the evidence in the file and the benefit of observing the claimant at the hearing, I concur with the staff of the VA and find the claimant has PTSD and meets listing 12.06. I give more weight to the opinions of VA professionals than the opinions of "civilian" doctors. The VA opinions are supported by the evidence( the claimants statements/testimony and Exhibts b5E, page3; B14F, pages 14, 18 and 27; B19F, pages 3 and 6; and B16F, page 4) and the professionals there have expertise in diagnosing and treating military veterans with PTSD." "Additionally he has the following metal limitations set forth in "Part B" of the metal listing: marked restriction of activities of daily living;..."**

1 11) Memorandum for Complainant from Sarah Nelson (ADD) dated August 26, 2004,  
2 Subject Reasonable Accommodation.

3 12) Letter from Complainant VA Doctor, Dr. Rukhsana A., Khan, Staff Psychiatrist,  
4 Dated Sept.1, 2004 Requesting 45 days time-off for "PTSD", see May 13, 2003 Request  
5 Advice Sick Leave.

6 13) E-mail From Gheno, Anita (OSAM) dated Sept 10, 2004 to Adams, Cynthia L.  
7 (Union Steward) Subject: Work Place Violence contains 3 pages a must documentation!  
8

9 14) Letter from Complainant VA Doctor, Dr. Teresi, regarding his "PTSD, and  
10 aggravated blood pressure."

11 15) **FEDERAL EXPRESS MAIL** to Woody Gilliland, Regional Director, Pacific  
12 Region. Dated: Sept. 15, 2004, a must read 3 page documentation **from Members of**  
13 **the Oakland District Staff,** contains the actions of Sarah Nelson, ADD, **must also**  
14 **note that complainant will swear under oath that he was unaware of this letter!!!**  
15

16 16) Memorandum to Woody Gilliland, Regional Director from Complainant dated Sept.  
17 16, 2004 Subject: Request for Accommodation regarding 45 advance sick leave for  
18 "PTSD" and High Blood Pressure. See May 13, 2003.  
19

20 17) Memorandum For: Complainant From: Sarah Nelson dated: Sept. 23, 2004,  
21 Subject Request for Accommodation, Denial of Accommodation for "PTSD", based on  
22 the Dr. Preseant's assessment. 2 pages.

23 18) Memorandum For: Complainant, From Woody Gilliland, Regional Director, Subject:  
24 Termination, Dated: Sept. 27, 2004. Based on complainant ***activities of daily living;...***  
25 ***and false statements from Sarah Nelson and Violation of the complainant Forth***  
26

27 ***Amendment for the Right of Due process which was denied the complainant this day***  
28

on forward.

19) Letter from Complainant Attorney address to Vic Sung, EEO Investigator for DOL, dated Oct. 12, 2004.

20) Unfair Practice Violation brought on against DOL, ESA, OFCCP, Oakland District Office, Oakland, for their past practice.

21) Office of Federal Compliance Program Sample Listing for ADA Checklist A: Determining Whether Individual has a Disability sent by DOL/ESA/OFCCP/PACIFIC.

**CLAIM FOR RELIEF**

**WHEREFORE, Plaintiff** prays for against Defendants as follows:

1.) For such relief as the Court deems just and proper; because Complainant sustains injuries of embarrassment, humiliation, and increased rage, all of which have caused, and continue to cause Complainant great mental pain and re-aggravated his **"PTSD"**

2) Reinstate Plaintiff to his full position as Equal Opportunity Compliance Officer at the grade of GS-11 with full back pay and all other entitled benefits in which he is entitled too or **Pay** settlement of 5 Million Dollars for each cause of action for Plaintiff sustained injuries of embarrassment, humiliation, and increased rage, all of which have caused, and continue to cause Plaintiff great mental pain and suffering.

3) Elaine Chao, Director of Department of Labor shall submit a letter requesting the **President Of The United States** to execute an Executive Order Recognizing "Post Traumatic Distress Order (PTSD)" as meeting the American Disability Act (ADA) for meeting *activities of daily living for All Veterans and service of any hostile*

1 *environments due to the act of violence , to be executed to all Federal Agencies and*  
2 *branches.*

3 3) Will accept ADR Phone Conference at the home of Lezly D. Crowell at 510-562-6975  
4 on Thursday, May 22, 2008 at 3:30pm.  
5

6  
7  
8  
9 Dated: April 24, 2008

10 By: Richard Gaytan (Pro se)  
11

12 733 Banff Drive

13 Newman, CA. 95360

14 (209-862-3755)  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**VERIFICATION**

**I, Richard Gaytan, am the Plaintiff in the above-entitled action. I have read the foregoing complaint and know the contents thereof. The same is true of my own knowledge, except as to those matters, which are therein alleged on information and belief, and as those matters, I believe it to be true.**

**I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.**

**Dated this 24th of April, 2008**

By:  Richard Gaytan (Pro se)

733 Banff Drive

Newman, CA. 95360

(209-862-3755)

**CERTIFICATE OF MAILING**

**CERTIFIED MAIL**

~~7007 3020 0000 3011 9404~~

Elaine Chao  
 c/o Annabelle T. Lockhart, Director  
 Office of Civil Rights  
 Department of Labor  
 200 Constitution Ave., NW #N4123  
 Washington, DC 20210  
 ADR



EB 791103718 US



UNITED STATES POSTAL SERVICE®

Customer Copy  
 Label 11-B, March 2004

Post Office To Addressee

DELIVERY POST OFFICE  
 Delivery Attempt Time Estimated Delivery Date

Mo. Day  
 Mo. Day  
 Mo. Day

**CUSTOMER USE ONLY**

**PAYMENT BY ACCOUNT**  
 Express Mail Corporate Acct. No. ☐ **WAIVER OF SIGNATURE (Domestic Mail Only)**  
 Federal Agency Acct. No. or Postal Service Acct. No. I wish delivery to be made without obtaining signature of addressee or addressee's agent (if delivery employee judges that article can be left in secure location) and I authorize that delivery employee's signature constitutes valid proof of delivery.

☐ **NO DELIVERY**  
☐ Weekend ☐ Holiday ☐ Mailer Signature

**FROM: (PLEASE PRINT)** PHONE ( )  
 Richard L. Gortals  
 703 615 5500  
 Washington, DC 20540

**TO: (PLEASE PRINT)** PHONE ( )  
 Annabelle T. Lockhart, Director  
 Office of Civil Rights  
 Department of Labor  
 200 Constitution Ave., NW #N4123  
 Washington, DC 20210

**FOR PICKUP OR TRACKING**

Visit **www.usps.com**  
 Call 1-800-222-1811



FOR INTERNATIONAL DESTINATIONS, WRITE COUNTRY NAME BELOW.

**TABLE OF EVIDENCE**

1  
2 1) Letter from Department of Veterans Affairs (VA), a Federal Agency, dated Nov. 13,  
3 1995.

4 Complainant is diagnose with Post-Traumatic Stress Disorder, know thereafter "PTSD".  
5

6 2) Letter dated August 27, 2002 address to Georgia Martin, Assistant District Director  
7 (ADD) of Complainant being hired as 30% or more with a diagnose of having "PTSD".

8 3) Letter dated April 24, 2003 from complainant VA Dr. Rukhsana A. Khan address "To  
9 Whom It May Concern", stating that complainant has a increase of "PTSD", and  
10 requesting accommodation.

11  
12 4) Complainant civilian doctor for time-off from 4/30/03 to 5/3/03 for Depression, form  
13 of "PTSD".

14 5) Letter dated May 8, 2003 to Georgia Martin, ADD, requesting advice sick form 5/6/03  
15 to 6/6/03 for "PTSD" and requesting accommodation.

16  
17 6) MEMORANDUM FOR: complainant dated May 9, 2003 address from Georgia  
18 Martin thru William D. Smitherman, Acting District Director (ADD), deny request for  
19 accommodation.

20 7) MEMORANDUM FOR: complainant dated may 15, 2003 from Woody Gilliland  
21 Regional Director of OFCCP. Requesting more medical documentation  
22

23 8) Letter Dated May 27, 2003 from complainant VA Doctor, Dr. Khann, shows a  
24 diagnosis of PTSD and recommending advice sick leave.

25 9) E-mail message to Georgia Martin, ESA from Gilliland, WW-ESA approving  
26 complainant advice sick leave of 30 days beginning May 5. Based on the proper medical  
27 documentation he received on June 3, 2003, from complainant VA Doctors.  
28

1 10) E-mail to Bill Smitherman, ADD, dated Oct. 8, 2003, requesting closure of  
2 assignment of Verizon Wireless, complainant was held responsible closing assignment  
3 late.

4 11) E-mail from Georgia Martin, ADD, to complainant dated Sept. 10, 2003, requesting  
5 Flexi-place.  
6

7 12) E-mail from Georgia Martin, ADD, to complainant dated Sept. 26, 2003, Cc: Bill  
8 Smitherman. Re: Status on Request for Accommodation.

9 13) E-mail From Complainant To: Smither, William, Date: Fri. Sept. 26, 2003 at  
10 2:24PM. Re: Status on Request for Accommodation.  
11

12 14) Letter from Complainant VA Doctor, Dr. Teresi, dated: 10/3/03, for: Request for  
13 Accommodation for "having small meal breaks for low blood sugar."

14 15) E-mail From Complainant To: Smither, William, Date: Fri. Nov. 7, 2003. Re: Status  
15 on Request for Accommodation, 2 pages.  
16

17 **EVIDENCE OF PTSD YEAR 2004**

18 1) 1a) Complainant EEO Complaint dated 1-23-2004 for Failed to promote for prior  
19 EEO complaint, 2a) Failed to Accommodate.

20 2) E-mail From Adams, Cynthia L. (Union Steward) to Georgia Martin dated Jan. 6,  
21 2004, for Grievance regarding accommodation.  
22

23  
24 3) E-mail From Adams, Cynthia L. (Union Steward) to Alice Young (ADD) dated Mar.  
25 19, 2004, regarding complainant accommodation.

26 4) E-mail From Alice Young (ADD) to Complainant dated June 10, 2004, regarding  
27 complainant NORI (Brondos vs.UAL), reviewing with some construction feed back and  
28

1 given to new Acting DD Nelson (Sarah).

2 5) E-mail From Complainant to Alice Young (ADD) dated June 14, 2004, regarding  
3 Status on Promotion and Reasonable Accommodation. 2 pages.

4 6) Letter from Complainant to Sarah Nelson Acting District Director, dated June 16,  
5 2004. Regarding "PTSD, Request for Accommodation, Low Blood Sugar."

6 7) Letter from Complainant to Sarah Nelson Acting District Director, dated June 24,  
7 2004, regarding "PTSD" and "Request for Reasonable Accommodation."

8 8) Letter from Complainant VA Doctor, Dr. Teresi dated July 27, 2004. Regarding  
9 complainant High Blood Pressure.

10 9) Letter from complainant attorney Lezly D. Crowell to Sarah Nelson (ADD) dated  
11 Aug.1, 2004, regarding "PTSD, Accommodation, EEO Complaint, etc....", 3 pages.

12 10) Letter from Department Of Labor Occupational Medicine Consultant dated August  
13 16, 2004.

14 11) Memorandum for Complainant from Sarah Nelson (ADD) dated August 26, 2004,  
15 Subject Reasonable Accommodation.

16 12) Letter from Complainant VA Doctor, Dr. Rukhsana A., Khan, Staff Psychiatrist,  
17 Dated Sept.1, 2004 Requesting 45 days time-off for "PTSD", see May 13, 2003 Request  
18 Advice Sick Leave.

19 13) E-mail From Gheno, Anita (OSAM) dated Sept 10, 2004 to Adams, Cynthia L.  
20 (Union Steward) Subject: Work Place Violence contains 3 pages a must documentation!

21 14) Letter from Complainant VA Doctor, Dr. Teresi, regarding his "PTSD, and  
22 aggravated blood pressure."

23 15) **FEDERAL EXPRESS MAIL** to Woody Gilliland, Regional Director, Pacific  
24  
25  
26  
27  
28

1 **Region. Dated: Sept. 15, 2004, a must read 3 page documentation from Members of**  
2 **the Oakland District Staff, contains the actions of Sarah Nelson, ADD, must also**  
3 **note that complainant will swear under oath that he was unaware of this letter!!!**

4 16) Memorandum to Woody Gilliland, Regional Director from Complainant dated Sept.  
5 16, 2004 Subject: Request for Accommodation regarding 45 advance sick leave for  
6 "PTSD" and High Blood Pressure. See May 13, 2003.

7 17) Memorandum For: Complainant From: Sarah Nelson dated: Sept. 23, 2004,  
8 Subject Request for Accommodation, Denial of Accommodation for "PTSD", based on  
9 the Dr. Preseant's assessment. 2 pages.

10 18) Memorandum For: Complainant, From Woody Gilliland, Regional Director, Subject:  
11 Termination, Dated: Sept. 27, 2004. Based on complainant ***activities of daily living;...***  
12 ***and false statements from Sarah Nelson and Violation of the complainant Forth***  
13 ***Amendment for the Right of Due process which was denied the complainant this day***  
14 ***on forward.***

15 19) Letter from Complainant Attorney address to Vic Sung, EEO Investigator for DOL,  
16 dated Oct. 12, 2004.

17 20) Unfair Practice Violation brought on against DOL, ESA, OFCCP, Oakland District  
18 Office, Oakland, for their past practice.

19 21) Office of Federal Compliance Program Sample Listing for ADA Checklist A:  
20 Determining Whether Individual has a Disability sent by DOL/ESA/OFCCP/PACIFIC